

AMENDED IN ASSEMBLY JANUARY 5, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 740**

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**Introduced by Assembly Member Hagman**

February 26, 2009

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~~An act to amend Section 12316 of, to add a heading for Chapter 2.6 (commencing with Section 12320) to, to repeal Sections 12317 and 12318 of, to repeal Article 3.5 (commencing with Section 12060) of Chapter 1 of, and to repeal the heading of Chapter 2.6 (commencing with Section 12316) of, Title 2 of Part 4 of the Penal Code, and to repeal Section 1 of Chapter 628 of the Statutes of 2009, relating to ammunition. An act relating to public safety.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 740, as amended, Hagman. ~~Ammunition.~~ *Public safety.*

*Existing law affects the public safety, as specified.*

*This bill would state that it is the intent of the Legislature to enact legislation on public safety.*

~~Existing law, effective January 1, 2010, provides that no handgun ammunition vendor, as defined, shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the vendor or employee thereof.~~

~~This bill would repeal those provisions.~~

~~Existing law, effective January 1, 2010, requires, subject to exceptions, commencing February 1, 2011, that handgun ammunition vendors obtain~~

~~a thumbprint and other information from ammunition purchasers, as specified. It prohibits supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know, or by using reasonable care should know, that the recipient is a person prohibited from possessing ammunition or a minor prohibited from possessing ammunition, as specified. Existing law, effective January 1, 2010, provides, subject to exceptions, that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction, with the deliverer or transferor being provided bona fide evidence of identity of the purchaser or other transferee. Violations of any of the above provisions are misdemeanors, some with specified penalties.~~

~~This bill would repeal those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. It is the intent of the Legislature to enact~~  
2     ~~legislation on public safety.~~  
3     ~~SECTION 1. Article 3.5 (commencing with Section 12060) of~~  
4     ~~Chapter 1 of Title 2 of Part 4 of the Penal Code, as added by~~  
5     ~~Chapter 628 of the Statutes of 2009, is repealed.~~  
6     ~~SEC. 2. The heading of Chapter 2.6 (commencing with Section~~  
7     ~~12316) of Title 2 of Part 4 of the Penal Code, as added by Chapter~~  
8     ~~628 of the Statutes of 2009, is repealed.~~  
9     ~~SEC. 3. Section 12316 of the Penal Code, as amended by~~  
10    ~~Chapter 628 of the Statutes of 2009, is amended to read:~~  
11    ~~12316. (a) (1) Any person, corporation, or dealer who does~~  
12    ~~either of the following shall be punished by imprisonment in a~~  
13    ~~county jail for a term not to exceed six months, or by a fine not to~~  
14    ~~exceed one thousand dollars (\$1,000), or by both the imprisonment~~  
15    ~~and fine:~~  
16    ~~(A) Sells any ammunition or reloaded ammunition to a person~~  
17    ~~under 18 years of age.~~  
18    ~~(B) Sells any ammunition or reloaded ammunition designed~~  
19    ~~and intended for use in a handgun to a person under 21 years of~~  
20    ~~age. As used in this subparagraph, "ammunition" means handgun~~  
21    ~~ammunition as defined in subdivision (a) of Section 12323. Where~~  
22    ~~ammunition or reloaded ammunition may be used in both a rifle~~

1 and a handgun, it may be sold to a person who is at least 18 years  
2 of age, but less than 21 years of age, if the vendor reasonably  
3 believes that the ammunition is being acquired for use in a rifle  
4 and not a handgun.

5 (2) ~~Proof that a person, corporation, or dealer, or his or her agent~~  
6 ~~or employee, demanded, was shown, and acted in reasonable~~  
7 ~~reliance upon, bona fide evidence of majority and identity shall~~  
8 ~~be a defense to any criminal prosecution under this subdivision.~~  
9 ~~As used in this subdivision, “bona fide evidence of majority and~~  
10 ~~identity” means a document issued by a federal, state, county, or~~  
11 ~~municipal government, or subdivision or agency thereof, including,~~  
12 ~~but not limited to, a motor vehicle operator’s license, California~~  
13 ~~state identification card, identification card issued to a member of~~  
14 ~~the Armed Forces, or other form of identification that bears the~~  
15 ~~name, date of birth, description, and picture of the person.~~

16 (b) (1) ~~No person prohibited from owning or possessing a~~  
17 ~~firearm under Section 12021 or 12021.1 of this code or Section~~  
18 ~~8100 or 8103 of the Welfare and Institutions Code shall own,~~  
19 ~~possess, or have under his or her custody or control, any~~  
20 ~~ammunition or reloaded ammunition.~~

21 (2) ~~For purposes of this subdivision, “ammunition” shall include,~~  
22 ~~but not be limited to, any bullet, cartridge, magazine, clip, speed~~  
23 ~~loader, autoloader, or projectile capable of being fired from a~~  
24 ~~firearm with a deadly consequence.~~

25 (3) ~~A violation of paragraph (1) of this subdivision is punishable~~  
26 ~~by imprisonment in a county jail not to exceed one year or in the~~  
27 ~~state prison, by a fine not to exceed one thousand dollars (\$1,000),~~  
28 ~~or by both the fine and imprisonment.~~

29 (4) ~~A person who is not prohibited by paragraph (1) from~~  
30 ~~owning, possessing, or having under his or her custody or control,~~  
31 ~~any ammunition or reloaded ammunition, but who is enjoined from~~  
32 ~~engaging in activity pursuant to an injunction issued pursuant to~~  
33 ~~Section 3479 of the Civil Code against that person as a member~~  
34 ~~of a criminal street gang, as defined in Section 186.22, may not~~  
35 ~~own, possess, or have under his or her custody or control, any~~  
36 ~~ammunition or reloaded ammunition.~~

37 (5) ~~A violation of paragraph (4) of this subdivision is a~~  
38 ~~misdemeanor.~~

39 (e) ~~Unless it is with the written permission of the school district~~  
40 ~~superintendent, his or her designee, or equivalent school authority,~~

~~no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (c) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.~~

~~(d) (1) A violation of paragraph (1) or (4) of subdivision (b) is justifiable where all of the following conditions are met:~~

~~(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.~~

~~(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.~~

~~(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021 or ammunition or reloaded ammunition because of paragraph (4) of subdivision (b).~~

~~(2) Upon the trial for violating paragraph (1) or (4) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.~~

1     ~~(3) The defendant has the burden of proving by a preponderance~~  
2     ~~of the evidence that he or she is subject to the exemption provided~~  
3     ~~by this subdivision.~~

4     ~~SEC. 4. Section 12317 of the Penal Code, as added by Chapter~~  
5     ~~628 of the Statutes of 2009, is repealed.~~

6     ~~SEC. 5. Section 12318 of the Penal Code, as added by Chapter~~  
7     ~~628 of the Statutes of 2009, is repealed.~~

8     ~~SEC. 6. A heading for Chapter 2.6 (commencing with Section~~  
9     ~~12320) is added to Title 2 of Part 4 of the Penal Code, to read:~~

10  
11                     ~~CHAPTER 2.6. AMMUNITION~~  
12

13     ~~SEC. 7. Section 1 of Chapter 628 of the Statutes of 2009 is~~  
14     ~~repealed.~~